

AMENDED IN SENATE APRIL 28, 2005

SENATE BILL

No. 920

Introduced by Senator Cox

February 22, 2005

An act to add Section 7201 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 920, as amended, Cox. Public contracts: retentions.

Existing law authorizes the Department of General Services, or any other department with authority to enter into contracts, to contract with suppliers for goods and services. Existing law provides that in a contract between the original contractor and a subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld ~~may~~ *shall* not exceed the percentage specified in the contract between the public entity and the original contractor.

This bill would, in a contract with the Department of Transportation *that utilizes federal funds*, authorize an original contractor in a contract between the original contractor and any subcontractor thereunder to withhold *a 5%* retention when making payments to the subcontractor for work performed, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7201 is added to the Public Contract
- 2 Code, to read:

1 7201. (a) (1) Notwithstanding ~~any other law~~ Section 7200, in
2 a contract with the Department of Transportation *when federal*
3 *funds are utilized*, an original contractor in a contract between the
4 original contractor and any subcontractor thereunder is permitted
5 to withhold retention when making payments to the
6 subcontractor for work performed. ~~The~~

7 (2) ~~The~~ percentage of the retention proceeds withheld ~~may~~
8 *pursuant to paragraph (1) shall not exceed the percentage*
9 ~~specified in the contract between the original contractor and the~~
10 ~~subcontractor~~ 5 percent and may only be withheld if the original
11 contractor provides written notice to any subcontractor, prior to
12 or at the time that the bid is requested, that a bond may be
13 required and the subcontractor subsequently is unable or refuses
14 to furnish a bond to the original contractor. *Any retention*
15 *withheld by the original contractor shall be paid to the*
16 *subcontractor within seven days after the subcontractor*
17 *satisfactorily completes his or her work.*

18 (b) In accordance with applicable state law, the original
19 contractor shall permit any subcontractor to substitute securities
20 in lieu of the withholding of retention from progress payments
21 allowed under this section. Substitutions shall be made in
22 accordance with Section 22300.

23 (c) This section shall apply to contracts entered into on or after
24 January 1, 2006.